

# **Exhibit A**

**(Previously Filed as Exhibit 9 to the Decl. of  
Bryon Becker, Dkt. Nos. 581-9 & 597-8)**

HIGHLY CONFIDENTIAL

Page 1

H I G H L Y C O N F I D E N T I A L

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

-----x

UNITED STATES, et al.,

Plaintiffs,

vs.

Case No.

1:23-cv-000108

GOOGLE LLC,

Defendant.

-----x

HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF BENNEASER JOHN

New York, New York

Friday, September 8, 2023

9:17 a.m.

Reported by:

Jennifer Ocampo-Guzman, CRR, CLR

JOB NO. 6082515

Veritext Legal Solutions

800-567-8658

973-410-4098

## HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 2</p> <p>1 2 3 4 5 6 7 8 9 September 8, 2023 10 9:17 a.m. 11 12 13 HIGHLY CONFIDENTIAL 14 Videotaped Deposition of 15 BENNEASER JOHN, held at the offices of 16 Paul, Weiss, Rifkind, Wharton &amp; 17 Garrison LLP, 1285 Avenue of the 18 Americas, New York, New York, pursuant 19 to subpoena, before Jennifer 20 Ocampo-Guzman, a Certified Realtime 21 Shorthand Reporter and Notary Public of 22 the State of New York. 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 2 APPEARANCES (Continued): 3 4 ORRICK HERRINGTON &amp; SUTCLIFFE LLP 5 Attorneys for nonparty Microsoft and the 6 Deponent 7 1152 15th Street, N.W. 8 Washington, D.C. 20005-1706 9 BY: EILEEN COLE, ESQ. 10 ALLEN DAVIS, ESQ., (via Zoom) 11 12 ALSO PRESENT: 13 CARLOS RIVERA, Videographer 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 2 APPEARANCES: 3 4 UNITED STATES DEPARTMENT OF JUSTICE 5 Attorneys for Plaintiff United States 6 325 7th Street, Suite 300 7 Washington, DC 20004 8 BY: JEFFREY VERNON, ESQ. 9 KAITLYN BARRY, ESQ. 10 JEFF QUI, ESQ., (via Zoom) 11 12 PAUL, WEISS, RIFKIND, WHARTON &amp; GARRISON LLP 13 Attorneys for Defendant Google LLC 14 1285 Avenue of the Americas 15 New York, New York 10019 16 BY: KAREN DUNN, ESQ. 17 ERICA SPEVACK, ESQ. 18 WILLIAM ISAACSON, ESQ. (p.m. session) 19 JULIA WOOD, ESQ., (via Zoom) 20 21 AXINN, VELTROP &amp; HARKRIDER LLP 22 Attorneys for Defendant Google LLC 23 55 Second Street 24 San Francisco, California 94105 25 BY: ISABELLA SOLORZANO, ESQ.</p>	<p style="text-align: right;">Page 5</p> <p>1 HIGHLY CONFIDENTIAL 2 THE VIDEOGRAPHER: Good morning. 3 We are going on the record at 9:17 a.m. 4 on September 8, 2023. Please note that 5 the microphones are sensitive and may 6 pick up whispering and minor 7 conversations; and please mute your 8 phones at this time. Audio and video 9 recording will continue to take place 10 unless all parties agree to go off the 11 record. 12 This is media unit number 1 of the 13 video-recorded deposition of Benneaser 14 John taken by counsel for defendant, in 15 the matter of the United States of 16 America versus Google LLC, filed in the 17 United States District Court, for the 18 Eastern District of Virginia, case 19 number 1:23-cv-000108-LMB-JFA. The 20 location of this deposition is 1285 21 Avenue of the Americas, New York, New 22 York. My name is Carlos Rivera 23 representing Veritext and I'm the 24 videographer. The court reporter is 25 Jennifer Ocampo-Guzman also representing</p>

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## HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 282</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 answer was about demand.</p> <p>3 Q. Right. But before you spoke about</p> <p>4 demand and we will get to demand, you said</p> <p>5 Xandr didn't have first-party properties. Do</p> <p>6 you remember saying that?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Is it the case that</p> <p>9 Microsoft has first-party properties?</p> <p>10 A. That is correct.</p> <p>11 Q. And Microsoft has now acquired</p> <p>12 Xandr, right?</p> <p>13 A. That is correct.</p> <p>14 Q. Now, you did also mentioned</p> <p>15 availability of demand, and I would ask you</p> <p>16 just to look at the document in front of you</p> <p>17 dated November 2022.</p> <p>18 A. Uh-huh, yes.</p> <p>19 Q. And if you looked at the left-hand</p> <p>20 side of the page, this is a Xandr document,</p> <p>21 after the acquisition by Microsoft and it</p> <p>22 refers to "Unique Demand." Do you see that?</p> <p>23 A. That is correct.</p> <p>24 Q. And if you look at "Unique Demand"</p> <p>25 then there are four categories and the four</p>	<p style="text-align: right;">Page 284</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 SSPs wide array of publisher inventory,</p> <p>3 right?</p> <p>4 A. I do not.</p> <p>5 Q. And you don't dispute that when the</p> <p>6 document says, Microsoft Audience Network</p> <p>7 demand originated from Bing search and</p> <p>8 Microsoft audience -- Microsoft Audience</p> <p>9 Network audience buys, that it's describing</p> <p>10 this as unique demand to which Xandr's</p> <p>11 publishers will have access following the</p> <p>12 Microsoft/Xandr acquisition?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. So you're bringing the</p> <p>15 demand that Microsoft has access to as a</p> <p>16 result of its search advertising to Xandr's</p> <p>17 publishers through Xandr Monetize, correct?</p> <p>18 A. Xandr publishers are one of the</p> <p>19 publishers. MSAN is and will continue to</p> <p>20 provide the demand to outside of Monetize as</p> <p>21 well.</p> <p>22 Q. Right. And while we're on the</p> <p>23 topic of demand, you spoke earlier about how</p> <p>24 sophisticated publishers on the supply side</p> <p>25 are partnering with Xandr and so you</p>
<p style="text-align: right;">Page 283</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 categories are projects that Microsoft and</p> <p>3 Xandr are working on. Do you see that?</p> <p>4 A. That is correct.</p> <p>5 Q. And the first project is called</p> <p>6 Microsoft Audience Network bidder</p> <p>7 integration. Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And in the "Primary Audience and</p> <p>10 Benefit" column, listing the primary audience</p> <p>11 and benefits of the Microsoft Audience</p> <p>12 Network bidder integration, it says, Monetize</p> <p>13 SSP sellers will now get access to Microsoft</p> <p>14 Audience Network demand originating from Bing</p> <p>15 Search and Microsoft Audience Network</p> <p>16 audience buys. Do you see that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. All right. And then it says,</p> <p>19 Microsoft Audience Network "buyers will be</p> <p>20 able to access Monetize SSP's wide array of</p> <p>21 publisher inventory."</p> <p>22 Do you see that?</p> <p>23 A. Yes, I do.</p> <p>24 Q. And you don't dispute that this</p> <p>25 Microsoft Xandr document refers to Monetize</p>	<p style="text-align: right;">Page 285</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 mentioned Axel Springer, right?</p> <p>3 A. That is correct.</p> <p>4 Q. News Corp is one, right?</p> <p>5 A. News Corp is not an Axel customer.</p> <p>6 They're an SSP, but they're primarily Google</p> <p>7 customer.</p> <p>8 Q. Right, but they're a publisher that</p> <p>9 works with Xandr?</p> <p>10 A. As an SSP.</p> <p>11 Q. As an SSP, Hulu?</p> <p>12 A. Hulu did not work with us.</p> <p>13 Q. How about CNN?</p> <p>14 A. CNN as an SSP, not as an ad server</p> <p>15 customer.</p> <p>16 Q. How about Warner Media?</p> <p>17 A. Warner Media did not use as an ad</p> <p>18 server customer.</p> <p>19 Q. SSP?</p> <p>20 A. SSP, that's correct.</p> <p>21 Q. And Netflix, we've already talked</p> <p>22 about Netflix?</p> <p>23 A. Correct.</p> <p>24 Q. Now, if you look down on the</p> <p>25 left-hand side of the page, also in the</p>

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1 JOHN - HIGHLY CONFIDENTIAL  
 2 category of "Unique Demand" the fourth  
 3 project it refers to, it is "Microsoft  
 4 audience" -- sorry --  
 5 MS. DUNN: Strike that.  
 6 [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]  
 11 [REDACTED]  
 12 [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED]  
 15 [REDACTED]  
 16 [REDACTED]  
 17 [REDACTED]  
 18 [REDACTED]  
 19 [REDACTED]  
 20 [REDACTED]  
 21 [REDACTED]  
 22 [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED]  
 25 [REDACTED]

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1 JOHN - HIGHLY CONFIDENTIAL  
 2 [REDACTED]  
 3 [REDACTED]  
 4 [REDACTED]  
 5 [REDACTED]  
 6 [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]  
 11 [REDACTED]  
 12 [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED]  
 15 [REDACTED]  
 16 [REDACTED]  
 17 I would like you to look now at  
 18 what we will mark as Exhibit 18.  
 19 (MSFT Exhibit 18, Document  
 20 entitled, "Reach audiences across  
 21 screens with premium advertising,"  
 22 marked for identification, this date.)  
 23 Q. Now, you were asked by the  
 24 government counsel numerous questions about  
 25 Microsoft's Outlook in 2007. Do you recall

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1 JOHN - HIGHLY CONFIDENTIAL  
 2 that?  
 3 MR. VERNON: About Outlook?  
 4 Objection to form mischaracterizes and  
 5 beyond the scope.  
 6 MS. DUNN: I'll rephrase.  
 7 Q. Do you recall being asked some  
 8 questions by government counsel about  
 9 Microsoft's view of the world in 2007?  
 10 A. Today?  
 11 Q. No, he asked you questions about  
 12 2007, when he was talking about --  
 13 A. That's correct, during the talk,  
 14 yeah.  
 15 Q. This is the Microsoft website  
 16 today, as it appears today, and this is the  
 17 web page that talks about Xandr and premium  
 18 programmatic advertising. Do you see that in  
 19 front of you? If you look at the URL at the  
 20 top it says --  
 21 A. The URL, correct.  
 22 Q. -- "Xandr programmatic premium  
 23 advertising"?  
 24 A. That's correct.  
 25 Q. And Microsoft, this is on

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1 JOHN - HIGHLY CONFIDENTIAL  
 2 Microsoft's website and it's telling  
 3 advertisers and publishers that they can help  
 4 solve your buyers and sellers greatest  
 5 advertising challenges with Xandr's platforms  
 6 that enable you to unlock the full value of  
 7 running programmatic advertising campaigns  
 8 across screens and tapping into engaged  
 9 audiences. And so you don't disagree that  
 10 this is what Microsoft is telling people  
 11 today, do you?  
 12 A. I don't disagree.  
 13 Q. And if you look down, it refers to  
 14 the Xandr's end-to-end platforms?  
 15 A. That is correct.  
 16 Q. And would you do agree that having  
 17 an end-to-end platform helps prevent fraud?  
 18 MR. VERNON: Objection, leading,  
 19 also scope.  
 20 A. Yes.  
 21 Q. If you look at page 2 of the  
 22 printout from Microsoft's website, it says  
 23 that premium advertising is available for a  
 24 variety of formats through Microsoft. Do you  
 25 see that?

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<p style="text-align: right;">Page 290</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, that is correct.</p> <p>3 Q. And it lists "connected TV, display</p> <p>4 and native." Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. And it doesn't say those are, you</p> <p>7 know, aimed at different people, it just</p> <p>8 talks about all three of those there, right?</p> <p>9 MR. VERNON: Objection, vague.</p> <p>10 A. Can you clarify? What do you mean</p> <p>11 by that?</p> <p>12 Q. Microsoft is telling people through</p> <p>13 its website that you can reach your desired</p> <p>14 audience with one of the world's largest</p> <p>15 marketplaces; it's talking about Xandr,</p> <p>16 right?</p> <p>17 A. Yes, that is correct.</p> <p>18 Q. And it specifically mentions that</p> <p>19 that goes from connected TV to display to</p> <p>20 native. You see that?</p> <p>21 A. Right. You can reach the audience</p> <p>22 through one of those marketplaces, correct.</p> <p>23 Q. Right.</p> <p>24 And it specifically advertises, if</p> <p>25 you look down, there is a picture of the TV</p>	<p style="text-align: right;">Page 292</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 says "across digital formats," what formats</p> <p>3 it's talking about?</p> <p>4 A. It's display, audio, video, CTV.</p> <p>5 Q. All right. I would like to show</p> <p>6 you, sir, our Tab 53.</p> <p>7 (MSFT Exhibit 19, Document</p> <p>8 entitled, "Xandr in Microsoft Product</p> <p>9 Synergy Slides - Phase 2 - For buyers -</p> <p>10 Talk Track," Bates Nos.</p> <p>11 MSFT-LIT-0000004160 through</p> <p>12 MSFT-LIT-0000004163, marked for</p> <p>13 identification, this date.)</p> <p>14 MS. SPEVACK: Exhibits 19.</p> <p>15 MS. DUNN: Exhibit 19.</p> <p>16 Q. This is a document --</p> <p>17 MR. VERNON: Can you wait until we</p> <p>18 get copies?</p> <p>19 MS. COLE: And the first page?</p> <p>20 Metadata?</p> <p>21 MS. DUNN: Yes, the first page is</p> <p>22 metadata. This is a document produced</p> <p>23 by Microsoft to Google and the date is</p> <p>24 November 9, 2022, on this document. It</p> <p>25 follows the Microsoft/Xandr acquisition</p>
<p style="text-align: right;">Page 291</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 show "Stranger Things," and you can see in</p> <p>3 the top left-hand corner that that's being</p> <p>4 shown on Netflix. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And today Microsoft is touting, you</p> <p>7 can see on page 3, its exclusive technology</p> <p>8 and sales partnership with Netflix. Do you</p> <p>9 see that?</p> <p>10 A. Yes, I do.</p> <p>11 Q. It says, "all CTV advertising</p> <p>12 served on Netflix is exclusively available</p> <p>13 through the Microsoft advertising platform."</p> <p>14 Do you see that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And then if you go to the part at</p> <p>17 the bottom of the "Advertiser Platform,"</p> <p>18 today what Microsoft is telling people who</p> <p>19 may be interested in its products that it has</p> <p>20 a robust data marketplace with access to</p> <p>21 premium supply across digital formats and</p> <p>22 flexible ways to transact.</p> <p>23 Do you see that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. And do you happen to know when it</p>	<p style="text-align: right;">Page 293</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 and it is a talk track for buyers meant</p> <p>3 to accompany slides.</p> <p>4 Q. Do you have any reason to doubt</p> <p>5 that this talk track for buyers was prepared</p> <p>6 in the ordinary course of business by</p> <p>7 Microsoft employees?</p> <p>8 A. I don't know.</p> <p>9 Q. All right. One of the things that</p> <p>10 you talked about in your testimony with the</p> <p>11 government attorney was demand, and so when</p> <p>12 we're talking about demand, just to be clear,</p> <p>13 you mean advertisers are the demand side,</p> <p>14 right?</p> <p>15 A. That is correct.</p> <p>16 Q. And the point of the advertisers in</p> <p>17 the demand is so that people can be reached</p> <p>18 and see the ads, right?</p> <p>19 MR. VERNON: Objection, leading.</p> <p>20 A. That is one unique talk point,</p> <p>21 audience reach, yes.</p> <p>22 Q. Right.</p> <p>23 And if you look at what it says in</p> <p>24 the buyer talk track under slide 4, it talks</p> <p>25 about the "Microsoft Advertising</p>

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<p style="text-align: right;">Page 294</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Marketplaces." Do you see that?</p> <p>3 A. Yes, uh-huh, yes.</p> <p>4 MR. VERNON: Show us where you are.</p> <p>5 MS. DUNN: I'm on --</p> <p>6 MR. VERNON: Never mind. I'm good.</p> <p>7 Q. And it describes Microsoft</p> <p>8 advertising ecosystem as expansive. Do you</p> <p>9 see that?</p> <p>10 A. Which paragraph? The second one?</p> <p>11 Q. It's on slide 4, "Microsoft</p> <p>12 Advertising Marketplaces" and it says,</p> <p>13 "Microsoft advertising's expansive</p> <p>14 ecosystem." Do you see that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And Microsoft's expansive ecosystem</p> <p>17 allows you access to over one billion people.</p> <p>18 Do you see where it says that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Do you happen to know that a</p> <p>21 billion people is a seventh of the population</p> <p>22 on earth?</p> <p>23 A. Yes, I do.</p> <p>24 MS. COLE: That's beyond the scope.</p> <p>25 Q. Now, do you have any reason to</p>	<p style="text-align: right;">Page 296</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 And so when Microsoft and Xandr are</p> <p>3 talking to the buyers about buying across</p> <p>4 channels and formats, what they're talking</p> <p>5 about is, at least, CTV, gaming, shopper</p> <p>6 marketing, native and display, right?</p> <p>7 MR. VERNON: Objection,</p> <p>8 mischaracterizes native, display --</p> <p>9 Q. It that what it says?</p> <p>10 A. It says advertisers were able to</p> <p>11 reach across different audiences and</p> <p>12 different formats.</p> <p>13 Q. Right. And it's telling buyers,</p> <p>14 advertisers that they can reach people</p> <p>15 through CTV, gaming, shopper marketing and</p> <p>16 native all as a result of Microsoft and</p> <p>17 Xandr, right?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. All right.</p> <p>20 MS. DUNN: Okay. I would like to</p> <p>21 show you, if we can hand the witnesses</p> <p>22 tabs 26, 27 and 28.</p> <p>23 MS. SPEVACK: It will be</p> <p>24 Exhibit 20.</p> <p>25 (MSFT Exhibit 20, Natively produced</p>
<p style="text-align: right;">Page 295</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 doubt that this is true?</p> <p>3 A. I do not.</p> <p>4 Q. Now, it then says, "Here's a closer</p> <p>5 look at the inventory available." And it</p> <p>6 mentions Microsoft search network,</p> <p>7 Microsoft's owned and operated sites that we</p> <p>8 went through, Microsoft Audience Network,</p> <p>9 which includes MSN, Outlook and Edge and it</p> <p>10 mentions PromoteIQ which is the retail outfit</p> <p>11 that we talked about. Do you see that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And Microsoft also wants buyers to</p> <p>14 know that Xandr is one of the largest global</p> <p>15 programmatic marketplaces. Do you see that?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Now if you look at slide 5 in the</p> <p>18 buyers talk track. It says, "We're excited</p> <p>19 to be working as part of Microsoft to create</p> <p>20 new valuable opportunities for advertisers.</p> <p>21 With Microsoft, we're gaining significant</p> <p>22 momentum across CTV, gaming shopper marketing</p> <p>23 and native - further strengthening Xandr and</p> <p>24 Invest DSP as your strategic partner to buy</p> <p>25 across channels and format."</p>	<p style="text-align: right;">Page 297</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 document, PowerPoint presentation</p> <p>3 entitled, "Welcome to Microsoft</p> <p>4 Advertising," Bates Nos.</p> <p>5 MSFT-LIT0000002147, marked for</p> <p>6 identification, this date.)</p> <p>7 MS. SPEVACK: 21.</p> <p>8 (MSFT Exhibit 21, Document, Bates</p> <p>9 Nos. MSFT-LIT0000033249 through</p> <p>10 MSFT-LIT0000033254, marked for</p> <p>11 identification, this date.)</p> <p>12 Q. I'm just going to ask you if</p> <p>13 they're documents prepared in the ordinary</p> <p>14 course of business. And I'm not going to ask</p> <p>15 you any questions about them.</p> <p>16 MS. SPEVACK: And 22.</p> <p>17 (MSFT Exhibit 22, Natively produced</p> <p>18 document, PowerPoint presentation</p> <p>19 entitled, "Xandr Ad Server/Supplement,"</p> <p>20 Bates No. MSFT-LIT0000028835, pages 1</p> <p>21 through 16, marked for identification,</p> <p>22 this date.)</p> <p>23 (Discussion off the record.)</p> <p>24 Q. So those three documents that I</p> <p>25 just handed to you --</p>

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## HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 298</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 MR. VERNON: Do you have 20 and 21?</p> <p>3 MS. DUNN: I'm not asking any</p> <p>4 questions about them. But, yeah,</p> <p>5 they're here. Okay.</p> <p>6 Q. So my question about each of those</p> <p>7 three is the same, whether you recognize</p> <p>8 those as documents prepared by your company</p> <p>9 employees in the ordinary course of business?</p> <p>10 A. That is correct.</p> <p>11 Q. They have all been produced to</p> <p>12 Google in this litigation?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay.</p> <p>15 MS. DUNN: Let's show the witness</p> <p>16 our Tab 23.</p> <p>17 MS. SPEVACK: This will be</p> <p>18 Exhibit 23.</p> <p>19 (MSFT Exhibit 23, Natively produced</p> <p>20 document entitled, "Advertising at</p> <p>21 Microsoft Before June 7th, 2022," Bates</p> <p>22 No. MSFT-LIT-0000030367, pages 1 through</p> <p>23 14, marked for identification, this</p> <p>24 date.)</p> <p>25 Q. Now, this is a document where the</p>	<p style="text-align: right;">Page 300</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Microsoft's "Meta DSP," and it describes Meta</p> <p>3 DSP as a "fully integrated Omnichannel DSP</p> <p>4 that provides an easy way to run omnichannel</p> <p>5 campaigns using premium inventory and</p> <p>6 exclusive data." Do you see that?</p> <p>7 A. That is correct.</p> <p>8 Q. What is an omnichannel campaign?</p> <p>9 A. An omnichannel campaign is a buyer</p> <p>10 can buy multiple formats through one DSP.</p> <p>11 Q. And why do you believe that an</p> <p>12 advertiser or buyer would want to run an</p> <p>13 omnichannel campaign?</p> <p>14 A. We believe that's where the</p> <p>15 industry is going and currently, I think I</p> <p>16 said earlier, the agencies and buyers still</p> <p>17 operate different teams by different formats.</p> <p>18 Q. And in your opinion, do advertisers</p> <p>19 care about reaching their target users?</p> <p>20 A. Advertiser care about the reaching</p> <p>21 target users and they care about getting</p> <p>22 their return on their ad dollars and they</p> <p>23 also care about how and who reaching the</p> <p>24 budget, so each format they also operate</p> <p>25 their own groups, and that's how they manage</p>
<p style="text-align: right;">Page 299</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 metadata suggests that you prepared it.</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. And is it, was it prepared</p> <p>5 in the ordinary course of business?</p> <p>6 A. That is correct.</p> <p>7 Q. Can you turn to page 10 of 14? Now</p> <p>8 first I will ask you, what was the purpose of</p> <p>9 preparing this document?</p> <p>10 A. It's an internal discussion to --</p> <p>11 let me see, two more slides -- just to orient</p> <p>12 myself to come up with plan and next steps.</p> <p>13 It's more like my stock meeting I believe.</p> <p>14 Q. So this is --</p> <p>15 A. So it says, thinking, this was</p> <p>16 thinking. It's more like my thought</p> <p>17 processes I just put together on these</p> <p>18 slides. If you noticed the last few slides</p> <p>19 are not properly formatted or beautified.</p> <p>20 Q. So you said this is about plan and</p> <p>21 next steps. Did you say that?</p> <p>22 A. That is correct.</p> <p>23 Q. So if you look at slide 10 of 14?</p> <p>24 A. 10 of 14, yes.</p> <p>25 Q. The title of the slide is:</p>	<p style="text-align: right;">Page 301</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 the budgets also.</p> <p>3 Q. And are you aware whether</p> <p>4 advertisers ever shift money across channels</p> <p>5 if they're not getting a return that they</p> <p>6 like?</p> <p>7 MR. VERNON: Objection to form,</p> <p>8 vague, leading.</p> <p>9 A. That's what I was hoping the</p> <p>10 industry would move, but it's very hard.</p> <p>11 Q. And then in your slide that talks</p> <p>12 about the omnichannel campaign, it lists in</p> <p>13 red what I take to be the various channels;</p> <p>14 is that correct?</p> <p>15 A. Formats, channels, that's correct.</p> <p>16 Q. And so what are the omni channels,</p> <p>17 what are --</p> <p>18 MS. DUNN: Strike that.</p> <p>19 Q. The channels that you've listed as</p> <p>20 part of Microsoft's meta DSP, which would be</p> <p>21 a fully integrated omnichannel DSP, includes</p> <p>22 search display, native, video, CTV, DOOH,</p> <p>23 which is --</p> <p>24 A. Digital out of home.</p> <p>25 Q. -- digital out of home -- ATV, what</p>

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<p style="text-align: right;">Page 302</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 is that? Is that analog TV perhaps?</p> <p>3 A. Probably. We call it like linear</p> <p>4 TV. I don't know why it's called ATV here.</p> <p>5 Q. -- gaming, audio and social.</p> <p>6 Now let me ask this question, which</p> <p>7 is: You said earlier that display is on a</p> <p>8 decline. Are any of these various channels</p> <p>9 on a growth trajectory?</p> <p>10 MR. VERNON: Objection to form,</p> <p>11 mischaracterizes and vague.</p> <p>12 A. Video and CTV are in the growth.</p> <p>13 Q. And is gaming also a growth area?</p> <p>14 A. I don't have specific numbers to</p> <p>15 believe that.</p> <p>16 Q. But based on your experience, would</p> <p>17 you think so?</p> <p>18 A. They're not running a lot on</p> <p>19 gaming, so I don't have data to provide you</p> <p>20 on.</p> <p>21 Q. And what about social, is that a</p> <p>22 growth area?</p> <p>23 MR. VERNON: Objection, form.</p> <p>24 A. I don't have a direct information</p> <p>25 about social.</p>	<p style="text-align: right;">Page 304</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 right-hand side of your slide, that talks</p> <p>3 about the Meta DSP?</p> <p>4 A. That's right.</p> <p>5 Q. You list various SSP programmers?</p> <p>6 A. That is correct.</p> <p>7 Q. And there is various kinds of</p> <p>8 inventory here in your, in the slide that you</p> <p>9 envision. There is social media. There is,</p> <p>10 I see Meta. I see Instagram. There is</p> <p>11 streaming. I see Roku and Netflix and Hulu.</p> <p>12 There is gaming. There is Spotify and there</p> <p>13 is a search.</p> <p>14 Do you see all of those programs on</p> <p>15 the right?</p> <p>16 A. That is correct.</p> <p>17 Q. And so does that mean that part of</p> <p>18 Microsoft Meta DSP would take advantage of</p> <p>19 supply that comes from all of those types of</p> <p>20 inventory?</p> <p>21 MR. VERNON: Objection, vague,</p> <p>22 compound.</p> <p>23 A. To be clear, this is now not direct</p> <p>24 integration. [REDACTED]</p> <p>25 [REDACTED]</p>
<p style="text-align: right;">Page 303</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Q. Okay. And then if you look on the</p> <p>3 right-hand side under SSP, programmers and</p> <p>4 clubs, you see that --</p> <p>5 A. Page number, please.</p> <p>6 Q. I'm sorry, on the same slide.</p> <p>7 A. Same slide, yeah.</p> <p>8 MS. DUNN: And actually strike</p> <p>9 that.</p> <p>10 Q. One last question on the last</p> <p>11 piece. If an advertiser wasn't seeing a</p> <p>12 return on investment on display might they</p> <p>13 shift advertising dollars to CTV or something</p> <p>14 else?</p> <p>15 MR. VERNON: Objection to form,</p> <p>16 vague and leading.</p> <p>17 A. As I said, I haven't seen that</p> <p>18 happen based on the RFPs that we received.</p> <p>19 Q. But you agree it's possible?</p> <p>20 A. It is.</p> <p>21 MR. VERNON: Objection to form.</p> <p>22 A. It's possible they make the</p> <p>23 decisions, but I don't have a direct data</p> <p>24 point on that.</p> <p>25 Q. Okay. Now, if you look on the</p>	<p style="text-align: right;">Page 305</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 MS. DUNN: Can we go off the</p> <p>17 record?</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 6:01 p.m. and we're off the record.</p> <p>20 (A brief recess was taken.)</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 6:04 p.m. and we are back on the record.</p> <p>23 MS. DUNN: Mr. John, I'm handing</p> <p>24 what we marked as Microsoft 24.</p> <p>25 (MSFT Exhibit 24, Document</p>

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<p style="text-align: right;">Page 306</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 entitled, "Microsoft Advertising</p> <p>3 Ecosystem," marked for identification,</p> <p>4 this date.)</p> <p>5 Q. This is just a computerized version</p> <p>6 of the schematic that you marked up earlier,</p> <p>7 and I just want to give you a one more</p> <p>8 opportunity to -- I think we got everything</p> <p>9 right that you said, but if there is anything</p> <p>10 that we got wrong, please let us know. And</p> <p>11 otherwise, we will be done.</p> <p>12 MS. COLE: Take a minute and review</p> <p>13 it and make sure that it's accurate and</p> <p>14 has whatever limitations in it you want.</p> <p>15 Take the time and review it.</p> <p>16 A. Can I clarify a couple of things?</p> <p>17 Q. Sure.</p> <p>18 A. So when I put an Microsoft</p> <p>19 advertising line to here, Bing is the only</p> <p>20 one, DuckDuckGo, AOL and Yahoo run</p> <p>21 separately. We provides the APIs and the</p> <p>22 mechanisms, so users don't X one thing, but</p> <p>23 just, you know, since you put that box here,</p> <p>24 I just wanted to clarify that.</p> <p>25 The MSX, display and native, just</p>	<p style="text-align: right;">Page 308</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Q. We just want you to verify those</p> <p>3 are the documents that you brought with you</p> <p>4 to this deposition.</p> <p>5 A. This is something that I couldn't</p> <p>6 read. This looks like it.</p> <p>7 Q. Just make sure they're your</p> <p>8 authentic cheat sheets.</p> <p>9 MS. COLE: And they're all still</p> <p>10 designated "highly confidential."</p> <p>11 MS. DUNN: Understood.</p> <p>12 A. That is correct.</p> <p>13 MS. DUNN: Thank you, very much,</p> <p>14 sir.</p> <p>15 THE WITNESS: Thank you.</p> <p>16 MR. VERNON: So we do have some</p> <p>17 questions. I don't believe it will be</p> <p>18 the full hour we have left. I can</p> <p>19 actually go now or we can take a short</p> <p>20 break.</p> <p>21 THE WITNESS: It's up to you. I</p> <p>22 can go.</p> <p>23 EXAMINATION BY</p> <p>24 MR. VERNON:</p> <p>25 Q. Earlier counsel for Google asked</p>
<p style="text-align: right;">Page 307</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 one change there.</p> <p>3 Yes.</p> <p>4 Q. Just one quick question, can you</p> <p>5 access Bing and DuckDuckGo and AOL and Yahoo</p> <p>6 through Microsoft Advertising?</p> <p>7 A. AOL and DuckDuckGo and Yahoo, they</p> <p>8 leverage our search network. Right. From an</p> <p>9 advertising buying perspective, APR sending</p> <p>10 advertising dollars, I don't recall what I</p> <p>11 think about that. Sorry.</p> <p>12 Q. Do we need to do anything to the</p> <p>13 schematic, or are you okay?</p> <p>14 A. You can leave this now.</p> <p>15 Q. Great.</p> <p>16 And then that's an exhibit. You</p> <p>17 can keep that. And then, sorry, one last</p> <p>18 thing is, we've marked your cheat sheets as</p> <p>19 Microsoft 25, 26 and 27.</p> <p>20 (MSFT Exhibit 25, Cheat sheet,</p> <p>21 marked for identification, this date.)</p> <p>22 (MSFT Exhibit 26, Cheat sheet,</p> <p>23 marked for identification, this date.)</p> <p>24 (MSFT Exhibit 27, Cheat sheet,</p> <p>25 marked for identification, this date.)</p>	<p style="text-align: right;">Page 309</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 you some questions about a document</p> <p>3 discussing unique demand for Microsoft. Do</p> <p>4 you remember that?</p> <p>5 A. That is correct, yes.</p> <p>6 Q. For display, which company has more</p> <p>7 unique demand, Google or Microsoft?</p> <p>8 A. Google.</p> <p>9 MS. DUNN: Objection to form.</p> <p>10 Q. Why do you say that?</p> <p>11 A. Because the display advertising</p> <p>12 that runs across all the publishers from a</p> <p>13 small scale and large scale, Google has the</p> <p>14 largest supply. So advertiser dollars goes</p> <p>15 from -- advertisers dollars comes through</p> <p>16 Google for display.</p> <p>17 Q. Which company has the most unique</p> <p>18 demand for display?</p> <p>19 A. Google.</p> <p>20 Q. The unique demand that Microsoft</p> <p>21 and its companies have, it's available</p> <p>22 through is Xandr's SSP; is that right?</p> <p>23 A. That is correct.</p> <p>24 Q. Does Xandr's SSP bid on a realtime</p> <p>25 basis for a publisher, even when that</p>

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<p style="text-align: right;">Page 310</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 publisher does not use Xandr's publisher ad</p> <p>3 server?</p> <p>4 A. Of course, yes.</p> <p>5 Q. Why?</p> <p>6 A. Because by the start of the, open</p> <p>7 the ecosystem, that when a demand that comes</p> <p>8 through Microsoft and the demand goes through</p> <p>9 monetize, you would be able to access through</p> <p>10 the third-party websites apps, through an</p> <p>11 SSP.</p> <p>12 Q. Does Google AdX do the same thing?</p> <p>13 A. Google AdX make the demand</p> <p>14 available, but not all demand is available</p> <p>15 through that, the large demand goes through</p> <p>16 the direct customers, those are part of AdX,</p> <p>17 just access to customers.</p> <p>18 Q. Does Google's AdX bid on a realtime</p> <p>19 basis --</p> <p>20 MR. VERNON: Let me ask a different</p> <p>21 question.</p> <p>22 Q. How does Xandr's practice of making</p> <p>23 the demand available on Xandr's SSP</p> <p>24 different, if at all, from Google's AdX's</p> <p>25 practice of making the demand on Google AdX</p>	<p style="text-align: right;">Page 312</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 technology and charge a fee. If you are</p> <p>3 leveraging an ad server, you would pay a fee</p> <p>4 and you would leverage the technology. From</p> <p>5 a demand source, they can be bring their own</p> <p>6 demand through managed IO. Like a direct</p> <p>7 sale. We bring the demand from what is</p> <p>8 available, third-party demand available, so</p> <p>9 we have more providing a technology solution</p> <p>10 for them, so we treat those things separate.</p> <p>11 Q. Google's counsel asked you some</p> <p>12 questions about Microsoft's position in</p> <p>13 display. Do you remember that?</p> <p>14 MS. DUNN: Objection to scope.</p> <p>15 A. Microsoft questions specifically on</p> <p>16 display?</p> <p>17 Q. Right.</p> <p>18 A. Can you clarify what is the</p> <p>19 question, so I will be able to confirm?</p> <p>20 MR. VERNON: I'll be honest. My</p> <p>21 memory is not perfect at this late hour.</p> <p>22 Q. I recall counsel asking you</p> <p>23 questions about Microsoft's position in</p> <p>24 display. Do you remember that, or no?</p> <p>25 A. Positioning about -- in my</p>
<p style="text-align: right;">Page 311</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 available to publishers that don't use</p> <p>3 Google's publisher ad server?</p> <p>4 A. So Xandr Monetize gets a demand to</p> <p>5 Invest, through Microsoft, with this</p> <p>6 integration, and it was getting before too,</p> <p>7 and third-party DSPs, like Google. So we get</p> <p>8 the demand. When they get the demand,</p> <p>9 through monetize exchange, any publishers,</p> <p>10 those who are winning, will get the demand,</p> <p>11 right through our exchange. And if your</p> <p>12 question, now your question is specifically</p> <p>13 about the unique first-party demand, which is</p> <p>14 Xandr and Microsoft, it runs the same option</p> <p>15 that we run for any third-party. So from a</p> <p>16 greeting option perspective, third-party</p> <p>17 vendors and first-party vendors go through</p> <p>18 the same process.</p> <p>19 Q. Does Xandr tell publishers that if</p> <p>20 they want access to Xandr's unique demand,</p> <p>21 they must use Xandr's publisher ad server?</p> <p>22 A. No, we do not.</p> <p>23 Q. And why?</p> <p>24 A. So we treat those two things</p> <p>25 separately. We provide access to specific</p>	<p style="text-align: right;">Page 313</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 understanding, it's not Microsoft's</p> <p>3 positioning of the market, whether it's</p> <p>4 demand goes only to display or omnichannel,</p> <p>5 how the demand gets diverted against multiple</p> <p>6 formats.</p> <p>7 Q. Let me ask you this: For display</p> <p>8 in general, which company has a larger</p> <p>9 position, Google or Microsoft?</p> <p>10 MS. DUNN: Objection to form.</p> <p>11 A. Google.</p> <p>12 Q. And how big is the difference?</p> <p>13 MS. DUNN: Objection to form. He's</p> <p>14 not a competition expert.</p> <p>15 A. Based on the demand that we see</p> <p>16 from Google, as well as the publisher market</p> <p>17 share that Google has, Microsoft and -- I</p> <p>18 believe it's Google has the largest.</p> <p>19 Q. Let me show you one document.</p> <p>20 MR. VERNON: What number are we at?</p> <p>21 MS. SPEVACK: This one is going to</p> <p>22 be 28.</p> <p>23 (MSFT Exhibit 28, PowerPoint</p> <p>24 presentation entitled, "2019 Publisher</p> <p>25 Tools and Direct Supply," Bates Nos.</p>

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<p style="text-align: right;">Page 318</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 evolves, multiple players started picking</p> <p>3 compared to the display advertising.</p> <p>4 Q. Okay.</p> <p>5 MR. VERNON: Could we go off the</p> <p>6 record. Just give me two minutes. I</p> <p>7 just want to make sure I asked all the</p> <p>8 questions.</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 6:19 p.m. and we're off the record.</p> <p>11 (A brief recess was taken.)</p> <p>12 THE VIDEOGRAPHER: The time is</p> <p>13 6:21 p.m. and we're back on the record.</p> <p>14 Q. Do you have that document in front</p> <p>15 of you that we were just looking at?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And the one that refers to the</p> <p>18 "marketplace lock-in in Display." Do you see</p> <p>19 that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Earlier counsel asked you some</p> <p>22 questions about meetings between the DOJ and</p> <p>23 Microsoft with Xandr. Do you remember that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. Did Microsoft or Xandr create this</p>	<p style="text-align: right;">Page 320</p> <p>1</p> <p>2 STATE OF _____)</p> <p>3 ) :ss</p> <p>4 COUNTY OF _____)</p> <p>5</p> <p>6</p> <p>7 I, BENNEASER JOHN, the witness</p> <p>8 herein, having read the foregoing</p> <p>9 testimony of the pages of this</p> <p>10 deposition, do hereby certify it to be a</p> <p>11 true and correct transcript, subject to</p> <p>12 the corrections, if any, shown on the</p> <p>13 attached page.</p> <p>14</p> <p>15 _____</p> <p>16 BENNEASER JOHN</p> <p>17</p> <p>18 Sworn and subscribed to before</p> <p>19 me, this _____ day of</p> <p>20 _____, 2023.</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 319</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 document that talks about marketplace lock-in</p> <p>3 for display for purposes of showing it to the</p> <p>4 DOJ?</p> <p>5 A. Absolutely not.</p> <p>6 MR. VERNON: Okay. With that, and</p> <p>7 unless counsel for Google has further</p> <p>8 questions, I'm done with my questions,</p> <p>9 and I thank you and the court reporter</p> <p>10 and the videographer and to everyone for</p> <p>11 taking the time to sit here on a Friday.</p> <p>12 THE WITNESS: Thank you, all.</p> <p>13 MS. DUNN: Thank you very much. We</p> <p>14 appreciate you very, very much.</p> <p>15 THE VIDEOGRAPHER: We're going off</p> <p>16 the record at 6:22 p.m., and this</p> <p>17 concludes today's testimony given by Ben</p> <p>18 John. The total number of media units</p> <p>19 was five, and they will be retained by</p> <p>20 Veritext.</p> <p>21 (Time noted: 6:22 p.m.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 321</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3 STATE OF NEW YORK )</p> <p>4 : ss.</p> <p>5 COUNTY OF NEW YORK )</p> <p>6 I, Jennifer Ocampo-Guzman, a</p> <p>7 Certified Realtime Shorthand Reporter and</p> <p>8 Notary Public within and for the State of New</p> <p>9 York, do hereby certify:</p> <p>10 That BENNEASER JOHN, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn, and that such deposition is</p> <p>13 a true record of the testimony given by the</p> <p>14 witness.</p> <p>15 I further certify that I am not</p> <p>16 related to any of the parties to this action</p> <p>17 by blood or marriage, and that I am in no</p> <p>18 way interested in the outcome of this</p> <p>19 matter.</p> <p>20 IN WITNESS WHEREOF, I have</p> <p>21 hereunto set my hand this 12th day of</p> <p>22 September 2023.</p> <p>23</p> <p>24 <i>J. Ocampo-Guzman</i></p> <p>25 JENNIFER OCAMPO-GUZMAN, CRR, CLR</p>